

## ACCOUNTABLE ELECTORAL POSTPONEMENT

### Lessons learned from Indonesia

This document was written to mark the unfortunate postponement of elections caused by the Covid-19 Pandemic which hit Indonesia in 2020. This document aims to record the events which transpired, as well as serve as a catalyst for the creation of a guidance for election stakeholders regarding democratic election postponements.

--- IN SOLIDARITY ---

### Background

As a conscientious effort to mitigate the spread of the Covid-19 Pandemic, Indonesian officials declared the postponement of local elections, or Pilkada, scheduled to be held on September 23, 2020. This adds to the expanding statistics of elections negatively impacted by the said health crisis<sup>1</sup>. Under normal circumstances, such postponement would be considered as a direct affront to the democratic stability of Indonesia. In the opinion of various stakeholders, considering the health risks brought about by the pandemic, the postponement was general necessity and is without any ill-intention to harm Indonesian democracy

In addition to postponing the election, the Indonesian election management bodies and the Parliament also agreed to reallocate the funds for the process, amounting to around 15 trillion Rupiahs<sup>2</sup>, towards efforts to fight the pandemic. Such drastic measures were arrived at with the awareness that most of the pre-electoral preparations, including training, procurement processes, consultations, and material distributions, were hampered by mobility and logistical restrictions. To date, all governmental efforts are centered towards eradicating the health risk, and as such no date has been agreed upon to hold the local election.

The 2020 local poll was supposed to elect 9 governors, 224 regents, and 37 mayors from all over the country, with more than 100 million Indonesians expected to participate in the process. Initially, worries from various stakeholders regarding the postponement's negative effect on the still maturing Indonesian democracy surfaced given the fact that the mandate of local authorities

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<sup>1</sup> See more data at: <https://www.idea.int/news-media/multimedia-reports/global-overview-covid-19-impact-elections>

<sup>2</sup> Retrieved from <https://nasional.kompas.com/read/2019/10/07/19190211/anggaran-pilkada-serentak-2020-diperkirakan-lebih-dari-rp-15-triliun>

will not be renewed. However, these worries were superseded by the need to contain the pandemic and ensure the health of the citizens.

The Indonesian civil society subsequently understood and supported the decision of the election management bodies. There is now a common understanding among all electoral stakeholders that holding an election at a time of a health crisis will only undermine the gains achieved by Indonesia in promoting electoral participation. However, all stakeholders are also aware of the need to be cautious and to ensure that such special circumstances will not be abused in justifying undemocratic postponements. Thus, a mitigation plan and guideline should be considered by all Indonesian stakeholders on this regard.

To understand the electoral postponement in Indonesia, the civil society assessed the circumstance of the postponement, and highlighted some of the key important issues for consideration of the management bodies.

### Consideration on the Scope of Postponements

In this case, the Indonesian electoral postponement took effect immediately once it was declared, which means that any ongoing electoral process were immediately stopped. The Election Commission (KPU) within its authority released a circular to freeze all electoral process until May 28, 2020, covering the fifth electoral stage which includes the registration of the independent candidacy, the recruitment of the ad-hoc villages election officials, officer recruitment, implementation of the voter registration update, and the registration of the candidates from political parties. Should the conditions improve, the management body mandated that all preparations would resume after May 28.

On the other hand, should the crisis prolong, the postponement will continue beyond the specified date. In this situation the elections officials may request for the Government to release a Government Regulation in Lieu of Acts or *Peraturan Pemerintah Pengganti Undang-Undang* (Perpu) to legitimately expand the postponement for up to a year. On this longer electoral delay, a complication could occur. There are contending views on whether to reset the whole electoral preparation and disregard whatever preparation has been accomplished or build on what has been accomplished before the postponement was announced. In any way the debate sways, impact on the quality of elections, as well as on resources will be felt.

For future exercises, the management bodies can consider either a partial or total postponement, depending on the gravity of the situation.

**Partial postponement** is an option which delays only a portion of any part of an existing preparatory process or an entire electoral stage. All operations will be resumed immediately once the condition improves as it only requires a minimum length of delay. The partial postponement will not majorly affect any existing legal, political and electoral administration factors, and only

minimally delays a portion of the electoral process, thus reducing avenues to damage the credibility of the election.

**Total postponement** can be considered should there be a crisis which is expected to span a long period. In this type of delay, the election management body can decide to postpone or reset a major portion of the preparation, or altogether reset the entire election processes, depending on the gravity of the situation. The postponement may need an adjustment on the legislation, electoral administration, and budget, thus providing more avenues for the public to distrust the electoral process and the credibility of the election.

## Timing of Postponements

A postponement can be declared after conducting preliminary assessments which should consider the constitutionality, urgency, and credible risk mitigation procedures. In this case, postponement was announced on March 31, 2020, at least 6 months ahead of the scheduled election. The 2020 local election postponement was considered as the last resort, in response to calls for humanitarian considerations. There are no standards at present set by local law on when election postponements can be declared in case of emergency situations like pandemics or other calamities. For the future consideration of Indonesian stakeholders, an emergency mechanism which will trigger the halt of electoral preparations has to be created to pursue timely suspension of activities, thus saving precious time and resources, and enabling resources to be channeled to government response initiatives.

## Factors to Consideration on Declaring Postponements

Upon the assessment of the civil societies, the postponement of the elections, in consideration of the Covid-19 Pandemic that we are experiencing is a natural and adequate thing to do. On the other hand, to ensure that future declarations of postponements will not be abused, the following factors have to be considered:

### Constitutionality

The Indonesian Constitution is clear regarding the conduct of all elections. As stipulated in Article 22E (1) of the Indonesian Constitution states, *“the elections shall be held in general, free, secret, honest and fair manner”*. Therefore, in any future situation which merits the consideration of a postponement, the above principles should be the primary metric. If in any way, an election cannot be held in a manner enshrined by the Constitution, then a postponement is merited.

The postponement is considered constitutional when it follows the rule of law. Therefore, there are several things that need to be performed to tighten the legality of postponements. **First**, the time for postponing elections must be set in legal principle. Indeed, legal principles and

mechanisms must be established, which should answer questions when and how long an election should be postponed, and which parts of the electoral process are suspended, and when will the electoral process resume. **Second**, there should be a proper legal guidance on how to realign resources, both financial and manpower, initially meant for electoral processes. This will limit resource waste, as well as ensure transparency and accountability in utility of resources. **Third**, the law should respond to questions on how to regulate the term of office of ad hoc organizers at the sub-district, *kelurahan* level, that were recruited by the KPU and Bawaslu. The law should ensure that these people will be encouraged to join in the subsequent elections. Furthermore, if manpower drain is inevitable, the law should also be clear on how to conduct auxiliary recruitment procedures.

The legal mechanisms concerning the postponement of election should not have any form of gaps, which in effect could impinge on the fundamental rights of the citizens, inclusive and equal participation, public safety, and the election management bodies' effective duty performance. These are non-negotiable factors which should be considered in delaying the elections.

### **Transparency**

All public decision-making processes must ensure that all stakeholders are well consulted, especially in a delicate situation such as an electoral postponement. While a postponement is usually proposed by the election management body, such decision making must pursue concurrence from all sectors of the government, namely the executive, legislative, and judicial branches. An explanation on why such postponement was deemed necessary must be announced publicly, whether by press release or press conference. Civil society organizations must also be given access to information and be given leeway to express their thoughts in any medium.

### **Clear Agenda for the Resumption of Elections**

Any declaration of postponement must imperatively be accompanied by a timeline of when the election processes will resume. Such action will ensure and provide stakeholders with some comfort and enable them to make the necessary adjustments to their activities. This will also provide an opportunity for the civil society to assess the impact of the postponement, thus enabling them to provide recommendations for the following election.

## **What to do Between Elections**

### **Enhancing CSO Engagements**

A postponement is an unexpected circumstance which inevitably triggers worries among various stakeholders. The election management bodies can work with civil society in providing assurance to the public. With a wide network of volunteers nationwide, civil society organizations can

penetrate the grassroots and help provide all necessary information. This will also enable civil society organizations to gather recommendations, grievances, and public sentiments, all of which can be presented to managing bodies. Despite postponements being unfortunate and unexpected events, it is imperative that democratic consultative processes must continue.

### **Continuous online Voter Education**

The electoral postponement provides an additional time for stakeholders to seek intervention and improve the existing electoral set up. Civil societies can design an online voter education campaign to further promote public knowledge of the electoral process and the importance of responsible voting. The CSOs can partner with the elections management bodies and other institutions to maximize voter education impact. Online or virtual voter education packages can take the form of short videos, infographics, and memes to target the youth. The package should also include selected thematic contents on the cause of the postponement, how the government is responding to and mitigating further vulnerabilities, the processes of relocation of the electoral budget, and what is going on with the ad-hoc electoral officials, as well positive developments that can balance the news.

Voter education is a never-ending effort that should not be affected by electoral postponement. In a circumstance such as the Covid-19's spread, where movement and personal interactions are restricted, a creative effort is needed to deliver the message to the public. In this instance, messages should include safety mitigation plans, such as physical distancing in engaging any election related activities, as well as other messages that can burst confidence to democratic values in this difficult moment of time.

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